

PROB 12B
(7/93)

United States District Court

for the

Eastern District of Washington

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Aug 15, 2024

SEAN F. MCAVOY, CLERK

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**
(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Clinton Lee Ferguson

Case Number: 0980 2:20CR00115-TOR-1

Name of Sentencing Judicial Officer: The Honorable Thomas O. Rice, U.S. District Court Judge

Date of Original Sentence: June 3, 2021

Type of Supervision: Supervised Release

Original Offense: Receipt of Child Pornography, 18
U.S.C. § 2252A(a)(2)(A), (b)(1)

Date Supervision Commenced: Scheduled to occur on
September 1, 2024

Original Sentence: Prison - 60 Months;
TSR - 120 Months

Date Supervision Expires: N/A

PETITIONING THE COURT

To **REMOVE** special condition number 6, and to **ADD** special conditions of supervision 14-18 as follows:

- 6 You must not possess any type of camera or video recording device.
- 14 You must allow the probation officer to install monitoring software on any of the following used by you: computers, other electronic communications or data storage devices or media, that can receive, store, or otherwise possess materials with depictions of “sexually explicit conduct” (as defined by 18 U.S.C. § 2256(2)) involving children, or “actual sexually explicit conduct” (as defined by 18 U.S.C. § 2257(h)(1)) involving adults.
- 15 To ensure compliance with the computer monitoring condition, you must allow the probation officer to conduct initial and periodic unannounced searches on any of the following used by you: computers, other electronic communications or data storage devices or media, that can receive, store, or otherwise possess materials with depictions of “sexually explicit conduct” (as defined by 18 U.S.C. § 2256(2)) involving children, or “actual sexually explicit conduct” (as defined by 18 U.S.C. § 2257(h)(1)) involving adults. These searches shall be conducted to determine whether the computer contains any prohibited data prior to installation of the monitoring software, whether the monitoring software is functioning effectively after its installation, and whether there have been attempts to circumvent the monitoring software after its installation. You must warn any other people who use these computers that the computers may be subject to searches pursuant to this condition.

Prob 12B

Re: Ferguson, Clinton Lee

August 15, 2024

Page 2

- 16 You must not possess and/or use computers, other electronic communications or data storage devices or media, that can receive, store, or otherwise possess materials with depictions of “sexually explicit conduct” (as defined by 18 U.S.C. § 2256(2)) involving children, or “actual sexually explicit conduct” (as defined by 18 U.S.C. § 2257(h)(1)) involving adults without advance permission of the supervising officer.
- 17 You must submit to search, any of the following used by you: computers, other electronic communications or data storage devices or media, that can receive, store, or otherwise possess materials with depictions of “sexually explicit conduct” (as defined by 18 U.S.C. § 2256(2)) involving children, or “actual sexually explicit conduct” (as defined by 18 U.S.C. § 2257(h)(1)) involving adults. You must warn any other people who use these computers or devices capable of accessing the Internet that the devices may be subject to searches pursuant to this condition. A probation officer may conduct a search pursuant to this condition only when reasonable suspicion exists that there is a violation of a condition of supervision and that the computer or device contains evidence of this violation. Any search will be conducted at a reasonable time and in a reasonable manner.
- 18 You are prohibited from possessing or manufacturing any material, including videos, magazines, photographs, computer-generated depictions, or any other media that depict sexually explicit conduct involving children or adults, as defined at 18 U.S.C. § 2256(2). You must not enter any establishment involved in the sex industry, including but not limited to adult bookstores, massage parlors, and strip clubs. You must not utilize any sex-related adult telephone numbers. The supervising officer is authorized to monitor compliance in this area by obtaining relative records including but not limited to telephone, Internet, credit cards and bank statements.

CAUSE

Mr. Clinton Ferguson is currently scheduled to begin his upcoming and scheduled term of supervised release on September 1, 2024. In anticipation of Mr. Ferguson’s upcoming term of supervised release, identified barriers, current Court ordered conditions and expectations have all been discussed with him by the U.S. Probation Office. Mr. Ferguson has been made aware of the clarifying definition of “computer” as it has changed pursuant to the 9th Circuit Court’s decision in *United States v. Wells*, 29 F.4th 580 (9th Cir. 2022).

In addition, the need and purpose for conditions of supervised release restricting device access without officer approval, restricting his viewing or possession of pornography and allowing for device monitoring as well as inspection have been discussed with him. Mr. Ferguson readily admits that pornography serves as a trigger for him, and is in support of healthy boundaries to allow for the fostering of growth and compliance while on supervised release. Mr. Ferguson and the undersigned officer have also discussed the difficulty in restricting access to cameras and recording devices in current society given how common place they now are in today’s Internet capable devices. Given that device monitoring and inspection will be conducted throughout the term of supervision, it is the opinion of the undersigned officer that the purpose of supervised release can still be achieved absent the condition as originally imposed.

As a result of that information as outlined herein, Mr. Ferguson is in support of the requested modifications of supervision as evident by the signed and attached waiver of hearing to modify conditions form. Should the Court have any questions, please don’t hesitate to contact the undersigned officer.

Respectfully submitted,

by s/Chris Heinen

Chris Heinen
U.S. Probation Officer
Date: August 15, 2024

THE COURT ORDERS

- ☐ No Action
☐ The Extension of Supervision as Noted Above
☒ The Modification of Conditions as Noted Above
☐ Other



Thomas O. Rice
United States District Judge
August 15, 2024

Date